

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MICHAEL MULGREW, et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
TRANSPORTATION, et al.,

Defendants.

No 24 Civ. 00081 (DG) (JAM)

**STIPULATION AND [PROPOSED] ORDER TO TRANSFER CASE
TO THE SOUTHERN DISTRICT OF NEW YORK UNDER 28 U.S.C. § 1404(a)**

WHEREAS, on January 4, 2024, Plaintiffs Michael Mulgrew, *et al.* (“Plaintiffs”) filed a complaint against Defendants United States Department of Transportation, *et al.* (“Defendants”);

WHEREAS, on January 26, 2024, Plaintiffs filed an amended complaint in this action against Defendants;

WHEREAS, this action involves claims challenging the Central Business District (“CBD”) Tolling Program;

WHEREAS, two additional actions (designated related to each other) challenging the CBD Tolling Program are pending in the Southern District of New York before Judge Lewis J. Liman. *See Chan v. U.S. Dep’t of Transp.*, No. 23 Civ. 10365 (S.D.N.Y.) (“*Chan*”); *New Yorkers Against Congestion Pricing Tax v. U.S. Dep’t of Transp.*, No. 24 Civ. 367 (S.D.N.Y.) (“*New Yorkers*”);

WHEREAS, this action, *Chan*, and *New Yorkers* all concern the CBD Tolling program, contain similar causes of action, and involve almost identical defendants;

WHEREAS, under 28 U.S.C. § 1404(a), “[f]or the convenience of the parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district

or division where it might have been brought or to any district or division to which all parties have consented”;

WHEREAS, this civil action “might have been brought” in the Southern District of New York and is therefore covered by Section 1404(a);

WHEREAS, transferring this action to the Southern District of New York would serve the interest of justice and judicial economy;

WHEREAS, Plaintiffs and Defendants Metropolitan Transportation Authority (“MTA”), Triborough Bridge and Tunnel Authority (“TBTA”), New York State Department of Transportation (“NYSDOT”), and New York City Department of Transportation (“NYCDOT”) consent to transferring this action to the Southern District of New York; and

WHEREAS, Defendants United States Department of Transportation, Federal Highway Administration (“FHWA”), FHWA Administrator Shailen Bhatt, and FHWA New York Division Administrator Richard J. Marquis take no position on transferring this action to the Southern District of New York;

WHEREAS, the parties to the actions pending in the Southern District of New York have proposed a briefing schedule for further proceedings that will apply to this action should it be transferred to that Court by March 1, 2024, *see Chan*, ECF 25; *New Yorkers*, ECF 42;

THEREFORE, it is hereby stipulated by and among Plaintiffs and Defendants MTA, TBTA, NYSDOT, and NYCDOT (without objection from any other defendant) that, upon approval by the Court, this case be immediately transferred to the Southern District of New York pursuant to 28 U.S.C. § 1404(a).

Dated: New York, New York
February 16, 2024

Respectfully submitted,

/s/ Roberta A. Kaplan

Roberta A. Kaplan
Gabrielle E. Tenzer
KAPLAN HECKER & FINK LLP
350 Fifth Avenue, 63rd Floor
New York, New York 10118
Telephone: (212) 763-0883
Fax: (212) 564-0883
rkaplan@kaplanhecker.com
gtenzer@kaplanhecker.com

Joshua Matz
KAPLAN HECKER & FINK LLP
1050 K Street NW, Suite 1040
Washington, DC 20001
Telephone: (212) 763-0883
Fax: (212) 564-0883
jmatz@kaplanhecker.com

/s/ Mark A. Chertok

Mark A. Chertok
Elizabeth Knauer
John F. Nelson
SIVE, PAGET & RIESEL, P.C.
560 Lexington Avenue, 15th Floor
New York, New York 10022
Telephone: (212) 421-2150
mchertok@sprlaw.com
eknauer@sprlaw.com
jnelson@sprlaw.com

*Counsel for Defendants the Metropolitan
Transportation Authority and the Triborough
Bridge and Tunnel Authority*

/s/ Alan M. Klinger

Alan M. Klinger
David Kahne
Dina Kolker
Steptoe LLP
1114 Avenue of the Americas
New York, New York 10036
Telephone: (212) 506-3900
aklinger@steptoe.com
dkahne@steptoe.com
dkolker@steptoe.com

/s/ Beth A. Norton

Beth A. Norton
United Federation of Teachers
52 Broadway
New York, New York 10004
Telephone: (212) 701-9420

/s/ Louis Gelormino

Louis Gelormino
Fonte & Gelormino Legal Group
2550 Victory Blvd, Suite 304
Staten Island, New York 10314
Telephone: (917) 968-1619

Counsel for Plaintiffs

SYLVIA O. HINDS-RADIX
Corporation counsel of the City of New York

By: /s/ Christian Chase Harned
Christian Chase Harned
Assistant Corporation Counsel
Attorney for Defendant
100 Church Street
New York, NY 10007
Telephone: 212-356-1676
chharned@law.nyc.gov

*Counsel for Defendant the New York City
Department of Transportation*

LETITIA JAMES,
ATTORNEY GENERAL OF NEW YORK

By: /s/ Andrew G. Frank
Andrew G. Frank
New York State Attorney General's
Office
28 Liberty Street
New York, New York 10005
Telephone: (212) 416-8271
Fax: (212) 416-6007
andrew.frank@ag.ny.gov

*Counsel for Defendant New York State
Department of Transportation*

SO ORDERED this _____ day of February, 2024.

Diane Gujarati
United States District Judge